

# IOWA ESTATE PLANNING CHECKLIST

The instructions provided below contain links to legal instruments that are commonly used in estate planning. It is strongly recommended that individuals hire a professional attorney before executing these documents.

## Step 1 – Select a Health Care Agent

A **health care agent** is an adult who is appointed by an individual (the principal) to make medical decisions on their behalf in the event that the principal loses decisional capacity. There are several reasons that this situation could arise; however it is necessary that the principal's acting physician make the final determination regarding whether the principal has lost the capacity to represent themselves.

[Health Care Power of Attorney](#) – This form grants an individual the authority to act as the Principal's representative when making medical decisions.

- **Signing Requirements** ([§ 144B.3.1\(2\)](#)) – A Durable Power of Attorney for Health Care must be signed by the Principal (or by another person acting on behalf of the Principal at the Principal's direction) and at least two (2) Witnesses who, in the presence of each other and the Principal, witnessed the signing of the instrument.

## Step 2 – Select a Financial Agent

A **financial agent** is an individual who has formally been given the authority to act as the Principal's attorney-in-fact when making financial decisions. This agent may be able to act in this capacity if the Principal is unable to be present to execute financial documents or if they are mentally incapable of making such decisions themselves.

[Durable Power of Attorney](#) – Gives a person the Power of Attorney to execute legal instruments and make financial decisions on behalf of the Principal.

- **Signing Requirements** ([§ 633B.105](#)) – Must be signed by the Principal or signed by another individual (cannot be the Agent) who has been directed to do so by the Principal in the Principal's conscious presence and acknowledged by a Notary Public.

### Financial Powers Allowed:

- Real Property;
- Tangible Personal Property;
- Stocks and Bonds;
- Commodities and Options;
- Banks and Other Financial Institutions;
- Operation of Entity or Business;
- Insurance and Annuities;
- Estates, Trusts, and Other Beneficial Interests;

- Claims and Litigation;
- Personal and Family Maintenance;
- Benefits from Governmental Programs or Civil or Military Service;
- Retirement Plans;
- Taxes;
- Amend, revoke, or terminate a revocable inter vivos trust, if authorized by the trust;
- Agree to the amendment or termination of any other inter vivos trust;
- Make a gift to an individual who is not an agent, subject to the limitations of the Iowa Uniform Power of Attorney Act, Iowa Code section 633B.217, and any special instructions in this power of attorney.

### **Step 3 – Make a List of All Estate Items**

Making a complete [Current Assets List](#) is the first step of preparing the administration of an individual's estate. They should include all of their financial holdings, bank accounts, personal property, businesses, and real estate on the list. Creating a comprehensive list will make it easier to decide how to divide their property amongst their Beneficiaries.

### **Step 4 – Designate Beneficiaries**

Now that the individual has completed their Current Assets List, they will need to decide who their Beneficiaries will be and how their property will be distributed between the Beneficiaries. When making these decisions, it will be pertinent for the individual to contact their Beneficiaries to inform them that they will be named in the individual's Will or Trust.

### **Step 5 – Decide How to Transfer the Estate**

Once the Principal has decided how their estate will be divided and who their Beneficiaries are, they must execute a legal instrument that subscribes to State law regarding the administration of residents' estates. The **two (2) options** that are most commonly employed for this purpose are the Last Will and Testament, and the Revocable Living Trust.

A [Last Will and Testament \('Will'\)](#), which provides instructions on how the principal wants their estate to be divided. When the Principal dies, the Will must go through probate court to be "proved" before their estate can be divided amongst the Beneficiaries.

**Signing Requirements (§ 633.279)** – Required to be signed by the Principal with at least two (2) Witnesses (who must also sign).

A [Revocable Living Trust](#) is different from a Will in two (2) notable ways. Firstly, the property is placed into a Trust during the Principal's lifetime. Secondly, all the property placed within the Trust will be distributed without going through probate, thus making this a more convenient option for the Beneficiaries.

**Signing Requirements** (No statutes) – Should be signed by all parties in the presence of a Notary Public.

### **Step 6 – Keep the Documents Safe**

To ensure that all of the Principal's instructions and wishes are carried out, it is essential that both originals and copies of the various legal instruments be stored in a safe and secure location. If an instrument cannot be proved in court, the Principal's estate may not be divided according to their instructions. Ideally, all of the Principal's Agents, Attorneys, Attorney-in-Facts, Trustees, and Representatives named within the instruments should be given copies (or the original versions) of the documents for safekeeping.

## Iowa Estate Planning Laws

**Advance Health Care Directive** – [§ 144B.2](#)

**Durable Power of Attorney** – [§ 633B-301](#)

**Last Will and Testament** – [§ 633.279](#)

**Living Trust (Revocable)** – [§ 633a.2101](#)